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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 TYRONE DAVID JAMES SR.,

Case No. 2:18-cv-00338-JCM-VCF

10 Petitioner,

ORDER

11 v.

12 WILLIAMS, *et al.*,

13 Respondents.

14 Petitioner has filed a habeas petition under 28 U.S.C. § 2254 without properly commencing  
15 the action by paying the filing fee or filing a complete pauper application. Specifically, although  
16 petitioner submitted an application to proceed *in forma pauperis*, he did not submit the required  
17 financial certificate. LSR 1-2.

18 It does not appear that a dismissal without prejudice would cause petitioner substantial  
19 prejudice.<sup>1</sup> This improperly commenced action therefore will be dismissed without prejudice.

20 It therefore is ordered that this action shall be dismissed without prejudice.

21 It further is ordered that a certificate of appealability is denied. Jurists of reason would not  
22 find debatable whether the court was correct in its dismissal of the action without prejudice on  
23 procedural grounds, for the reasons discussed herein.

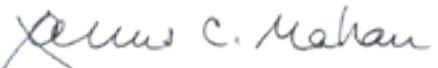
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25 <sup>1</sup> The conviction petitioner challenges arises out of Case No. 10C265506 in Eighth Judicial District Court. Based on  
26 the petition and the state court's docket, it appears that the conviction became final on or about January 28, 2013,  
27 when the time for filing a certiorari petition to the United State Supreme Court expired. Petitioner filed a state  
28 postconviction petition on March 14, 2013. Proceedings on the first petition remained pending through issuance of  
the remittitur on December 29, 2017. Therefore, as it appears that several months still remain in the federal  
limitations period, petitioner will not be prejudiced by dismissal of this action so long as he promptly files a new  
federal action with either the complete pauper application or payment of the filing fee.

1           It further is ordered, pursuant to Rule 4 of the Rules Governing Section 2254 Cases, that  
2 the clerk shall make informal electronic service upon respondents by adding Nevada Attorney  
3 General Adam P. Laxalt as counsel for respondents and directing a notice of electronic filing of  
4 this order to his office. No response is required from respondents other than to respond to any  
5 orders of a reviewing court.

6           The clerk of court shall send petitioner a copy of his papers in this action, along with copies  
7 of the forms and instructions for an inmate pauper application and habeas petition.

8           The clerk of court shall enter final judgment accordingly, dismissing this action without  
9 prejudice.

10           DATED February 28, 2018.

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14           JAMES C. MAHAN  
15           UNITED STATES DISTRICT JUDGE  
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